

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-12990

D.C. Docket No. 1:14-cv-24887-PAS

In re: Application of Hornbeam Corporation's Request for Discovery Pursuant to
28 U.S.C. 1782

HORNBEAM CORPORATION,
BRACHA FOUNDATION,
VADIM SHULMAN,

Intervenors-Appellees,

versus

HALLIWELL ASSETS, INC.,
PANIKOS SYMEOU,

Intervenors-Appellants.

No. 18-14104

D.C. Docket No. 1:14-cv-24887-LFL

In re: Application of Hornbeam Corporation's Request for Discovery Pursuant to
28 U.S.C. 1782

HORNBEAM CORPORATION,
BRACHA FOUNDATION,
VADIM SHULMAN,

Intervenors-Appellees,

versus

CC METALS AND ALLOYS, LLC,
FELMAN PRODUCTIONS, LLC,
FELMAN TRADING, INC.,
GEORGIAN AMERICAN ALLOYS, INC.,
MORDECHAI KORF,
OPTIMA FIXED INCOME, LLC,
OPTIMA GROUP, LLC,
OPTIMA INTERNATIONAL OF MIAMI, INC.,
OPTIMA VENTURES, LLC,

Interested Parties - Appellants,

HALLIWELL ASSETS, INC.,
PANIKOS SYMEOU,

Intervenors - Appellants.

Appeals from the United States District Court
for the Southern District of Florida

(January 14, 2020)

Before JORDAN and NEWSOM, Circuit Judges, and WRIGHT,* District Judge.

* Honorable Susan W. Wright, Senior United States District Judge of the United States District for the Eastern District of Arkansas, sitting by designation.

PER CURIAM:

Halliwell Assets, Inc. and Panikos Symeou appeal from the district court's order permitting and modifying discovery sought by Hornbeam Corp. under 28 U.S.C. § 1782. After we heard oral argument in this appeal, Hornbeam stated—in a filing submitted to a district court in New York—that it had changed its litigation strategy and now would not be instituting legal proceedings in the British Virgin Islands. *See* Hornbeam Corp.'s Mot. to Amend Second Am. Protective Order, D.E. 187 at 1–2, 4–5, in *In re Application of Hornbeam, Corp.*, No. 1:14-mc-00424 (VSB) (S.D.N.Y.). The appellants moved to supplement the record with this filing, and we granted that motion without objection from Hornbeam.

We can “take judicial notice of subsequent developments in cases that are a matter of public record and are relevant to the appeal.” *Rothenberg v. Sec. Mgmt. Co., Inc.*, 667 F.2d 958, 961 n.8 (11th Cir. 1982) (citing cases). Given Hornbeam's recent concession that legal proceedings in the British Virgin Islands will not be instituted, the discovery allowed by the district court is not for use in a foreign proceeding. *See In re Clerici*, 481 F.3d 1324, 1331–32 (11th Cir. 2007). We therefore vacate the § 1782 order being appealed, *see* D.E. 209, and remand for the district court to decide in the first instance whether the discovery already obtained should be destroyed as the appellants request.

VACATED AND REMANDED.